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MICHAEL WARING LEE

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Tributes

IN MEMORIAM: MICHAEL WARING LEE

KURT L. SCHMOKE*

Judge Michael Waring Lee was a distinguished jurist and scholar, and a man I have known, respected, and cared about for many years. Judge Lee's untimely death was a shock. At forty-two, his life and judicial career were sadly interrupted. We will never know the many great personal and judicial achievements Judge Lee would have accomplished had he not died so young.

But that does not matter, because Judge Lee proved his worth a long time ago. Judge Lee's incredible record of achievement speaks for itself. He squeezed more life, more judicial triumphs, and more professionalism into forty-two years than any one else I know.

Judge Lee was appointed to the Orphans' Court at age thirty and was elevated to Chief Judge a year later. He never looked back. Judge Lee built the Orphans' Court into a highly respected and efficiently run institution for resolving difficult legal disputes affecting families and children. The Orphans' Court does not receive a lot of public attention, but it is a court that under Judge Lee's leadership served our community by faithfully protecting the rights of children and guaranteeing the orderly and fair transfer of estates.

So we owe this son of Baltimore, law school professor, and judicial leader a deep debt of gratitude. He not only presided over the Orphans' Court with fairness and administrative skill, but he also helped train new Maryland lawyers to handle and argue cases with the

* Mayor, City of Baltimore.

same professionalism and commitment that he practiced throughout his legal career.

I will miss Michael Lee. He was a trusted friend, a thoughtful advisor, and a great legal mind. Our city has lost someone special. But his legacy as both Chief Judge of the Orphans' Court and as a tolerant, caring, and wise human being will endure.

I join the citizens of Baltimore in mourning Judge Lee—we have lost a special friend. Yet his memory stays with us, as does the challenge to live our lives with the dignity and intelligence with which he lived his.

ANDRE M. DAVIS*

Michael Waring Lee was an extraordinary individual. He had unique personal gifts that enabled him to serve his family, his community, his profession, and the court he loved.

It was exactly twenty years ago this past fall, in September 1975, that I met Michael. We became fast friends upon learning that we shared a wonderment at the law's capacity to effect positive change in society. At the risk of seeming immodest, we were part of an exceptionally talented group of first-year students who entered the University of Maryland School of Law that year. Among other notable distinctions, our class included the largest contingent of African-American students to matriculate in one year up to that time. Michael immediately distinguished himself among all students as a person of unexpected maturity, uncommon wisdom, and unquestioned integrity.

Michael was an outstanding presence at the law school. He had a major hand in the improvement of the Student Bar Association's parliamentary procedures. He also helped to organize a caravan of student supporters that traveled to out-of-state moot court competitions. Michael was the very soul of the Black Law Students Association, effecting compromises between groups at odds over the direction of the organization. He later became Chairman of the Moot Court Board and greatly improved the fairness of the competition for membership and the internal procedures attendant to the first-year program. He was everywhere, contributing his helpful insights and improving the life of every law student, and not a small number of professors.

No one was surprised when Michael became the first of our class (and one of the youngest lawyers ever) to become a member of the

* United States District Judge for the District of Maryland.

judiciary. Others have noted that he was “old beyond his years.” He was devoted to the idea of professionalizing the Orphans’ Court and to improving its image among the bar and the public. In addition to his keen intellect, he brought to his work a robust energy, an unending enthusiasm, and a strong sense of humor. He has left his mark on a court that is all the better for his influence on it.

Michael loved the law school, and his opportunity to teach the law was one he cherished immensely. He discovered that teaching was a noble calling, and he was very good at it. It is remarkable how he regularly managed to get lawyers and judges (very busy people, all of them) to devote three to five hours per semester to the first-year moot court program. They came out of respect and admiration for Michael and his passionate commitment to ensuring that his students derived the maximum benefit from their time with him. He succeeded at this as he did at all things he attempted.

Only Michael’s closest friends have known that throughout his adult life he was burdened with a seizure disorder that left him debilitated and helpless when it struck with its unpredictable fury. He never asked for—or even considered asking for—special dispensations of any kind for this or any other reason. Michael was a warrior for justice and for equal rights under the law. For as long as I am privileged to serve the citizens and the profession as a judge, I shall carry with me the important lessons of diligence, humility, and the unremitting commitment to excellence that define the life of Michael Waring Lee. He shall be sorely missed.

DONALD G. GIFFORD*

“Greetings and salutations!” When students and faculty heard these words in the halls of the University of Maryland School of Law, they knew that Judge Michael Waring Lee, with his boundless energy and optimism, was approaching them. Rarely has a single adjunct faculty member had such an impact on a law school or on so many students.

Judge Lee’s indomitable spirit was the cornerstone of the school of law’s superb moot court program since he first began teaching in 1988. Whatever others may say who saw him restructure and rejuvenate the institution of the Orphans’ Court, there was no doubt to any of us at the law school that teaching was Judge Lee’s first love.

* Dean, University of Maryland School of Law.

Judge Lee was the ideal teacher. The affection students held for him certainly was not because they perceived him as "easy." From time to time, early in the semester, students would find their way to the dean's office complaining that what was expected of them in Judge Lee's class was disproportionately great compared to what other faculty members expected of students in similar classes. A lack of focus or a lack of professionalism was never tolerated in his students' performances. Yet somehow through his demanding teaching, he always communicated to his students that he knew they could do it, and he cared deeply about them.

It was perhaps easier to measure the success of Judge Lee's outstanding teaching than it is in many other instances. After students at the University of Maryland School of Law complete the Introduction to Appellate Advocacy course, Judge Lee's course, they go on to compete in the Myerowitz Moot Court Competition, the intra-school championship. One of my first conversations with Judge Lee was immediately prior to the 1993 Myerowitz Moot Court finals. He proudly told me that three of the four finalists had been his students. He was able to describe the strengths and weaknesses of each of the three advocates and also to tell me something about each of them personally. When he came to the fourth competitor, the only one who had not been one of his students, his only response was "Hmmm. I don't know how she got in. She wasn't one of mine."

Many of the lessons that law schools teach their students go beyond how to analyze and how to argue. Judge Lee's tough mind and strong character inhabited a frail body. In the last years of his life, he came to class on crutches and finally in a wheelchair. Perhaps then he did his best teaching. He taught us all—students, faculty, and the dean—something about courage and appreciating the simple ability to live and to take pleasure in life's small events.

Henry Adams perhaps said it best in his autobiography when he said, "A teacher affects eternity; he can never tell where his influence ends." Our courtrooms are now filled with young attorneys who are more capable advocates because Judge Lee taught them what it was all about and demanded much of them. All of our lives have been enriched by knowing Michael and watching his struggle with his physical problems. Week after week, when he told students that the time for their arguments had elapsed, they often responded, "May I finish my answer?" Fortunately, for all of us, more time will always be necessary to finish the work begun by our colleague, Michael Lee.

DAVID BOGEN*

The Honorable Michael Waring Lee was a man of courage, dignity, and grace. From the time I first met him until the moment of his death, Mike struggled with health problems. I never heard him complain for himself—he had an abiding faith and a determination to get on with the task at hand. He never cut corners or took the easy way out—every year he chose to create new moot court problems rather than reuse or borrow them from other sources. In his court, he followed procedures strictly and made sure those involved in matters before his court understood exactly what was occurring.

At his memorial service, speaker after speaker spoke of his big feet. They even referred to his nickname—"Sasquatch"—however, big shoes are a metaphor for Michael; no one else can fill them. (There was another nickname, although not used at the law school to his face—"Yoda"—for the wise head on a slight frame.)

Michael was a student in my very first Legal Methods-Contracts class in 1975. Often students are terrified in their first year, but Michael frequently volunteered in his slow, deliberate oracular style. With that voice and style, it seemed sacrilegious to disagree. I could always count on Mike for a thoughtful answer; I just couldn't count on him to say it quickly.

Michael Lee was dignified. He had a deep sense of ceremony and ritual, and he knew how to make an entrance. However, he was less effective at making an exit. He graduated high school, yet he founded the alumni association, so he never left. At Macalester College in St. Paul, Minnesota, he again remained active with the alumni. And as for law school, he graduated in 1978 but a decade later—there he was again! When you realize that he never left any place he was associated with, it is clear that he will not leave us now.

Michael and I shared an interest in the history of the African-American legal profession in Maryland. His interest was personal. He was the heir to a great tradition as his great uncle Everett Waring was the first African-American admitted to the bar in Maryland. Shortly after his appointment to the Orphans' Court, Michael chaired a bar association committee to commemorate the centennial of that admission. Judge Lee was always ready with encouragement and a concern to use that history to inspire a new generation of lawyers. Michael himself was the first African-American to head a court in the State of

* Professor, University of Maryland School of Law.

Maryland. Yet it is not his race, but his leadership, that made his service great.

Judge Lee was a gentleman in all senses of the word—though he could be tough as he fought for resources and consideration for his court and his moot court classes. After the struggle, he had a warm and generous smile. If you saw it, (and if you came near him, you did), you will never forget it.

While serving as associate dean, I came to appreciate Judge Lee even more as the mainstay of the moot court program. When he was a student, full-time faculty taught moot court as part of a substantive course in the second semester of the first year. In 1987 the inauguration of our Legal Theory and Practice program led to a shift in the curriculum, and those students not taking moot court with their LTP teacher had a separate course for moot court. Judge Lee began to teach in that program at its inception. For nearly a decade, his dedication to the program provided large numbers of students with a strong apprenticeship. His example and advocacy continually raised the level of the moot court experience for all students.

At the memorial service, Mayor Schmoke offered a picture of Mike Lee at the entrance to heaven, arguing with St. Peter. If there is a God, as Judge Lee believed, there are two things of which we can be assured. First, Mike is making eye contact, and second, God will shake his hand for a job well done.

ABRAHAM DASH*

Graciousness, gentility, intelligence, and humor are uniquely appropriate words when one thinks of Judge Michael Waring Lee. As I listened to the colleagues and friends of Judge Lee who spoke for him at the law school's memorial service last year, I was struck by how all of us who knew him shared the same reaction to the character and personality of this extraordinary young man.

I was privileged to know and work with Judge Lee when he was the student chairman of the Moot Court Board in 1978, later as a colleague, but always as a friend. The memories I have of working with Judge Lee, while anecdotal in character, are actually vignettes that highlight his character, humility, and gentleness.

I recall one of our many lunches back in the late 1980s when he became an adjunct professor for appellate advocacy.¹ At that time,

* Professor, University of Maryland School of Law.

1. Judge Lee joined our faculty as adjunct professor for appellate advocacy in 1987 and taught every spring and summer until his untimely death.

Judge Lee always addressed me as "Professor Dash," and I called him "Mike." I told him that if he did not stop that I would have to call him "Judge Lee." I remember so well his response. With that special twinkle in his eye he said, "Well, 'Abe,' there is this difference between us—I will always be your student."

On another occasion, some years ago, we were discussing a problem involving a student member of the Moot Court Board assigned to assist him. The student, because of personal problems, had not done the work required, and would forfeit the one credit given for such activity. We both knew and liked the student, who was scheduled to graduate that spring. I suggested that if the student needed that credit to graduate, maybe we could make an exception in this case. He said, "That would not be right or ethical The student has not earned the credit, and students must learn to suffer the consequences of their failures." He then added with a smile, "After all, you taught me professional ethics." Later, I remember how relieved he was when I told him the student had sufficient credits to graduate despite the loss of that credit.

The law school has been and is fortunate in the quality of its adjunct professors, but Judge Lee stood out not only among our excellent adjuncts, but among all the faculty of the law school. The work, effort, and skill he put into his appellate advocacy course is a legend at the school. Former students who worked with him as his moot court assistants or who took his appellate advocacy course can attest to the work, time, and skill he gave to this program. I and many of my colleagues who sat as guest judges can confirm the thoroughness of his preparation and the esteem he earned from his students. He demanded excellence from his students, but he gave excellence in return. As faculty advisor to the Moot Court Board during those years, I, along with the deans, witnessed his intense efforts and the time he gave to our entire appellate advocacy program, over and beyond his specific classroom duties. What is so extraordinary about Judge Lee is that this great contribution he made to the school of law was made while performing the duties of Chief Judge of the Baltimore City Orphans' Court, and while suffering for years with the illness and physical handicaps that finally caused his death. In all the years I worked with him, I never heard him complain, or even comment on his illness; when asked about any recent hospitalization he would shrug it off with a smile, and simply say it was a "minor problem."

Judge Lee had the respect, admiration, and affection of the faculty, the bar, and the bench. The guest judges for his classes were drawn from all of the above. You could not say "no" to Michael Lee. I

can recall over the years the times when Michael would call me and explain that a guest judge for that weekend had to cancel and could I, or a faculty member, fill in for him. When I could not do it I would roam the halls of the law school looking for an unwary colleague. I would ask if they were free "this weekend" and, before the excuses were made, I would say it was for Mike Lee. The reply so often would be "Oh, for Mike, I can do it." When Michael put on the final, special moot court argument each semester for his class, the panel of guest judges was composed of the most distinguished members of the bar or the bench. When I would ask him, "Mike, how do you get such a panel each semester?" he would reply, "I just ask them."

It is not a simple cliché to say that Michael's death is a great loss. When you consider his achievements, in such a short life, under severe physical hardship, you can only wonder what this fine young man would have achieved if he had had even a few more years.

It is appropriate for a former student to write an "in memoriam" for a teacher, but there is a special sadness, a sense of the "world awry," when a teacher writes an "in memoriam" for a former student.

Judge Michael Waring Lee, former student, colleague, and friend, will indeed be missed.

ARLENE J.M. GRANT*

During the 1995-96 academic year, the University of Maryland School of Law and the legal community of Maryland experienced a great loss with the passing of Judge Michael Waring Lee. I consider myself fortunate to have had the experience of working with Judge Lee as a member of the Moot Court Board at the University of Maryland.

It is well known that Judge Lee demanded excellence of his students. Students often grumbled that they would earn only one credit for the appellate advocacy course and that the amount of work required by Judge Lee exceeded one credit. Fortunately, Judge Lee did not view the appellate advocacy exercise as just a one-credit exercise, but rather as a means of preparing his students for the "real world" of advocacy. Judge Lee invested significant time and energy to ensure that his students were prepared for, or at the very least well acquainted with, the appellate advocacy process.

* First Year Committee Chair, 1995-96 Moot Court Board, University of Maryland School of Law.

Judge Lee demanded excellence, not only of his students and teaching assistants, but also of himself. Even in the midst of his bouts with illness, Judge Lee cared and pushed himself to ensure that his students received a proper education. I benefitted from knowing Judge Lee as a student in his class, working on his reelection campaign, and as a teaching assistant. I did not come to truly appreciate Judge Lee's zeal, however, until I served as his teaching assistant last summer. I can recall several instances when Judge Lee called from his hospital room to check on his students' progress. He even went so far as to work on moot court assignments from his hospital bed.

An eternal optimist, Judge Lee often chided and joked his way through many painful or disappointing experiences trying to present situations in their most favorable light. For example, when his illness progressed in July, he called me to say that I would have to assume full responsibility for the course as his digestive system had declared its independence in commemoration of the July Fourth holiday. Although this was an alarming incident, Judge Lee handled the matter in stride. Despite this setback, he continued to maintain control over the class, even from his hospital room.

From Judge Lee's life, we learn of the power of perseverance, dedication, and commitment. Judge Lee is an inspiration. His positive free spirit and grace were unmatched. Beyond exposure to excellent teaching, Judge Lee offered me invaluable career advice and wisdom. Throughout the course of the summer, we had numerous discussions, ranging from spirituality to the quality of life. In discussing his health and the challenges he experienced, Judge Lee offered profound words of wisdom. To celebrate his life, I leave you with a reminder from Judge Lee: "One step forward and two steps back; well that is still a starting position." In essence, no matter what, continue on your journey toward excellence, even if you encounter difficulty along the way.

CARRIE RICCI-SMITH*

When I remember Judge Lee, I think of the man I knew as a dedicated teacher of appellate advocacy. I was always awestruck by how deeply he cared and how hard he worked to ensure his students received the best training he could provide. Although many will remember him as the Chief Judge of the Orphans' Court, I will always remember him in the role he performed equally well, as an educator.

* President, 1995-96 Moot Court Board, University of Maryland School of Law.

I had the opportunity to work with Judge Lee during the summer of 1995. Another student and I assisted in developing the moot court problem for his Introduction to Appellate Advocacy class. Initially, I had no idea what I was getting myself into—we had to create the moot court problem from scratch. Judge Lee told us that many moot court professors simply recycle their problems from one year to the next, but this was not good enough for Judge Lee's students. He wanted to provide each new class with new ideas and challenges. Unfortunately for me, I was working full-time and devoting three to four additional hours each evening to the moot court problem. I found Judge Lee to be very demanding of my time, and initially I was glad I would only work with him for a month.

Judge Lee must have sensed my frustration. Just when I felt the most anxiety over my workload, he shared with me his philosophy on teaching and the importance of the appellate advocacy course to a law program. He explained that the first-year moot court experience provides law students with the chance to apply the law in a practical manner and the opportunity to learn what it means to be an advocate. Because of this, he took his role as a teacher of appellate advocacy very seriously. He wanted to challenge his students and sharpen their brief-writing and oral-advocacy skills to the greatest extent possible. He felt a very strong responsibility toward them and would not let them down. And after realizing the depth of his motivation, I knew that I couldn't let his students down either.

At times I wondered why Judge Lee continued teaching. I saw that his health was failing him. I thought if he gave up teaching, he would have more time to rest and perhaps his health would improve. But I soon came to realize that just the opposite was true. I can recall the twinkle in his eye as he described how he creatively had turned his hospital room into a fully functioning office. He said the nurses would occasionally "fuss" at him, but he always won them over. Asking Judge Lee to give up teaching would be asking him to give up a part of himself. He truly thrived on sharing his knowledge and experience with others. He felt that he could make a positive impact on each student's lawyering skills. His dedication was selfless and untiring.

Judge Lee often showed he cared about my own development as well. We had many conversations about the legal profession and my career aspirations. I found myself turning to him for advice on many occasions. Although I initially wanted to quickly get through the month I worked with Judge Lee, when the month was over I found I couldn't let go. I often returned to him to seek his wise counsel and

sincere words of motivation. I miss his invaluable guidance and support.

As a fitting tribute to Judge Lee's commitment to appellate advocacy, the Moot Court Board of the University of Maryland has established its own chapter of the Order of Barristers, a nationally recognized moot court honor society. The chapter bears the name of our staunchest supporter, Judge Michael Waring Lee. The first members were inducted this semester.

Finally, I feel it is my duty on behalf of the many students who reaped the benefits of his teaching to say thank you to Judge Lee. Thank you for believing in our abilities, for your tireless dedication, for making our learning a priority in your life, and for being our mentor. You are sorely missed.